IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

**JUDGMENT**

Rajasthan Financial Corporation **Vs.** Highway Tyre Retread Pvt.
Ltd., Udaipur & Ors.

**D.B. CIVIL SPECIAL APPEAL (WRIT) NO.773/2006**
against the order dated 29.7.2005 passed in S.B. Civil Writ Petition No.5463/93.

Date : 18.12.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. S.G. Ojha for the appellant.
Mr. L.M. Lodha for the respondents.

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**BY THE COURT:- (PER HON'BLE RAJESH BALIA, J.)**

Having heard learned counsel for the parties we find that no interference is called for in the matter at the instance of appellant.

The respondent was sanctioned a loan as a Small Scale Industry to the tune of Rs.13.1 lacs and in its

meeting held on 16.3.1991 the District Level Committee also sanctioned a central subsidy in a sum of Rs.2,09,600/- under the scheme of 1990. Against the sanctioned subsidy only Rs.1.5 lac was disbursed by the appellant corporation and that was adjusted against the dues against the respondent-petitioner.

The respondent-petitioner is engaged in the business of retreading of tyres and the same was not in dispute.

On 26.6.1991 the State Level Screening Committee held that the assessee's unit was not engaged in the manufacturing process and, therefore, was not eligible for Central Cash Subsidy and informed the Rajasthan Financial Corporation to recover the amount if already paid to the petitioner. In pursuance of said order, the appellant Corporation has debited the respondent's account with the amount of subsidy earlier credited to his account and raised a demand in respect thereof. As a consequence of not paying the same, demand with interest was raised.

This led to filing of S.B. Civil Writ Petition No.5463/1993 which has been allowed by the learned Single Judge vide his order under appeal. The decision to withdraw the cash subsidy was by the State Level Screening Committee whereas the decision to grant subsidy was of District Level Screening Committee.

The State Government has not chosen to challenge the judgment of the learned Single Judge effecting its decision.

Apparently, the Corporation is merely a body which was required to act as a disbursing authority for central investment cash subsidy and it was merely acting at the behest of the State Industries Department in the matter of grant of subsidy. The order of the State Government having been set aside and State Government having not challenged, the appellant Corporation cannot be said to be person aggrieved with the judgment of the learned Single Judge.

Apart from the aforesaid it was a common ground before the leaned Single Judge that after considering the entire matter the District Level Screening Committee has found the respondent-petitioner eligible for cash investment subsidy under the Central Government Scheme and the same was disbursed. This is not the case of anybody that the respondent has furnished any wrong particulars moreover the decision to withdraw the cash subsidy was taken by the State Level Screening Committee, which was not the deciding authority without notice to the respondent-petitioner. The order of State Level Screening Committee was made wholly in violation of natural justice affecting respondent adversely.

In these circumstances, no error can be said to have occurred in the order of learned Single Judge and there is no merit in the contention of the learned counsel for the appellant.

Accordingly, the appeal fails and is hereby dismissed. No order as to costs.

[GOPAL KRISHAN VYAS], J. [ RAJESH BALIA ], J.

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